

OFFICE OF INDIAN AFFAIRS.  
Bulletin 20 (1926, reprint).

INDIAN CITIZENSHIP.

By the act of June 2, 1924 (43 Stat. L., 253), Congress conferred citizenship upon all noncitizen Indians born within the territorial limits of the United States. The text of the act follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all non-citizen Indians born within the territorial limits of the United States be, and they are hereby, declared to be citizens of the United States: Provided, That the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property.

Indians who are otherwise eligible to vote may not be denied that right because of their race. Their right in this respect is protected by the fifteenth amendment to the Constitution of the United States, which says:

The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

In order to exercise the right of suffrage, Indians must of course comply with the conditions equally required of other voters, and may be denied the privilege of voting if they fail to comply with the requirements of the law as to registration, payment of poll tax, or do not meet the educational or other qualifications for electors, etc., as provided by the State laws.

It will be observed that the act provides that the granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indian to tribal or other property. Therefore, the restrictions upon the trust property--real or personal--of Indians are not removed by the passage of this act. Questions relative to the control or management of trust property are, therefore, not changed by the act but are to be handled on their own merits as heretofore.

Prior to the passage of the act of June 2, 1924, about two-thirds of the Indians of the United States were already citizens. There were a number of different provisions of law by which or under which Indians became citizens previous to June 2, 1924. Some of the most important ways of their attaining citizenship were as follows:

1. Treaty Provision.--In some of the treaties or agreements with certain tribes of Indians provision was made whereby Indians desiring to become citizens might become such by complying with certain prescribed formalities somewhat similar to those required of aliens. For example, see Articles 13, 17, and 28 of the Treaty of February 23, 1867, with various bands or tribes of Indians. (15 Stat. L., 513).

2. Allotment Under the Act of February 8, 1887.--In the act of February 8, 1887 (24 Stat., 388), Congress provided for the allotment of land to the Indians in severalty and in section 6 thereof declared that Indians so allotted should become citizens of the United States and of the State in which they reside. (See the language of the act.)

3. Issuance of Patent in Fee Simple.--In the act of May 8, 1906 (34 Stat., 182), Congress amended the act of February 8, 1887, so as to postpone citizenship of Indians thereafter allotted until after a patent in fee simple had been issued to said Indians. Provision was also made whereby patent in fee might be issued by the Secretary of the Interior to competent Indians before the expiration of the twenty-five-year trust period. Therefore Indians whose trust patents are dated subsequent to May 8, 1906, and who have also received their patents in fee simple have become citizens under said act of May 8, 1906.

4. Adopting Habits of Civilized Life.--Section 6 of the act of February 8, 1887, both before and after its amendment of May 8, 1906, provided: "That every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States, without in any manner impairing or otherwise affecting the rights of any such Indian to tribal or other property."

5. Minor Children.--The Solicitor of this Department has held that where Indian parents became citizens upon allotment, their minor children became citizens with them, and that children born subsequent thereto were born to citizenship.

6. Citizenship by Birth.--(a) An Indian child born in the United States of citizen Indian parents is born to citizenship. (b) Legitimate children born of an Indian woman and a white citizen father are born to citizenship.

7. Soldiers and Sailors.--Congress in the act of November 6, 1919, provided that Indian soldiers and sailors who served in the recent World War and who have been honorably discharged might be granted citizenship by courts of competent jurisdiction. (Indian Office Circulars Nos. 1587 and 1618.)

8. Marriage.--The act of August 9, 1888 (25 Stat. L., 392), provided that Indian women who married citizens of the United States thereby became citizens of the United States. This provision is apparently inconsistent with the act of September 22, 1922, and would probably be held to have been repealed by the latter act, though not specifically mentioned therein. Marriages coming within the act of August 9, 1888, and consummated before the passage of the act of September 22, 1922, would not of course be affected by the later act.

9. Special Act of Congress.--Sometimes Congress makes provision for a particular tribe of Indians or a particular group of Indians to become citizens. For instance:

(a) In the act of March 3, 1901 (31 Stat. L., 1447), provision was made for the extension of citizenship to the Indians in the "Indian Territory" by amending section 6 of the act of February 8, 1887 (24 Stat. L., 388). It should be observed, however, that in the act of May 8, 1906 (34 Stat. L., 182), amending said section 6, the language, "and every Indian in the Indian Territory," was not included.

(b) In the act of March 3, 1921 (41 Stat. L., 1249-50), citizenship was extended to all members of the Osage tribe of Indians.

The above is not intended to be a complete list of the acts of Congress involving the citizenship of Indians, as there are a number of other laws including those affecting particular tribes, but it is believed the foregoing list or statement is sufficient to give a general idea of the main principles or rules that were involved in the determination of whether or not a particular Indian was a citizen prior to the act of June 2, 1924, supra.

